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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,624	12/29/2005	Eckhard Plaatje	1703 1362US	9293
29894 7590 02/20/2008 DREISS, FUHLENDORF, STEIMLE & BECKER POSTFACH 10 37 62 D-70032 STUTTGART, GERMANY				
EXAMINER				
HOEY, ALISSA L				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/532,624

Applicant(s)

PLAATJE ET AL.

Examiner

Alissa L. Hoey

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9, 11-16 and 18-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9, 11-16 and 18-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This is in response to amendment received on 11/08/07. Claims 1-8, 10 and 17 are cancelled, claims 9, 11, 16, 18 and 20 and claims 22-24 are newly added. Claims 9, 11-16 and 18-24 are rejected below.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 9, 11, 14-16 and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Ruth-Larson (US 4,535,481).

Ruth-Larson teaches the following:

9. (currently amended) A disposable piece of clothing, suitable for medical, chemical or biotechnological use to protect a user wearing the clothing from liquids or microorganisms (figures 1 and 2), the clothing comprising: at least one air-permeable outer layer having a non-woven laminated material made from at least one meltblown layer Sandwiched between two spunbond (column 5, lines 41-50 and lines 57-62).
; and a laminated liquid-impermeable, air permeable inner barrier layer (column 5, lines 63-8 through column 6, lines 1-58) connected, at least in sections, to regions of a side of said outer layer facing the user, said barrier layer having an outer liquid impermeable

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layer (column 5, lines 63-68) and an inner an air permeable, non-woven material layer (column 6, lines 39-58) facing the user, wherein the clothing comprises a front part and integrally connected sleeves (figures 1 and 2).

11. (currently amended) The disposable piece of clothing of claim 9, wherein said outer layer comprises a spunbond/meltblown/spunbond meltblown/spunbond (SMMS) laminated material (column 5, lines 41-62).

14. (previously presented) The disposable piece of clothing of claim 9, wherein said barrier layer is connected to said outer layer in a material-bonding fashion (column 6, lines 24-31).

15. (previously presented) The disposable piece of clothing of claim 14, wherein said material-bonding comprises glue or welding connections (column 6, lines 24-31).

16. (currently amended) The disposable piece of clothing of claim 9, wherein said barrier layer is disposed proximate said sleeves or proximate lower sleeve ends in a region of user hands to beyond user elbows and/or in a breast region of the user, wherein said barrier layer extends in the breast region beyond user knees (column 6, lines 4-57).

18. (currently amended) The disposable piece of clothing of claim 9, wherein regions of the sleeves are formed by another material (column 6, lines 1-31: one portion with liquid impermeable material, another portion without).

19. (previously presented) The disposable piece of clothing of claim 18, where said other material is a non-woven sheet of laminated material (column 5, lines 40-50 and lines 57-63).

20. (currently amended) The disposable piece of clothing of claim 9, wherein said sleeves are Raglan sleeves (see figures 1 and 2).

21. (previously presented) The disposable piece of clothing of claim 9, wherein seams in the clothing are folded-over seams or overlapping seams (column 6, lines 66-68 through column 7, lines 1-3).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruth-Larson.

In regard to claim 22, Ruth-Larson et al. teaches a disposable piece of clothing, suitable for medical, chemical or biotechnological use to protect a user wearing the clothing from liquids or microorganisms (figures 1 and 2), the clothing comprising: at least one air-permeable outer layer having a non-woven laminated material made from at least one meltblown layer sandwiched between two spunbond layers; and a laminated liquid-impermeable, air permeable inner barrier layer connected, at least in sections, to regions of a side of said outer layer facing the user, said barrier layer having an outer liquid impermeable layer and an inner non-woven layer facing the user,

wherein the clothing comprises a front part and integrally connected sleeves (column 5, lines 40-68 through column 6, lines 1-65).

However, Ruth-Larson fails to specifically teach the clothing having a water vapor permeability of at least 2,000 g/m² at reinforced locations thereof.

With respect to the water vapor permeability being at least 2,000 g/m² at reinforced locations would depend upon the type of test, type of machine used, climate and penetration of ethanol. The vapor permeability is capable of being 2,000 g/m² depending upon the above mentioned factors, in which one having ordinary skill in the art can alter to reach the 2,000 g/m² of water vapor permeability.

In regard to claim 23, Ruth-Larson et al. teaches a disposable piece of clothing, suitable for medical, chemical or biotechnological use to protect a user wearing the clothing from liquids or microorganisms (figures 1 and 2), the clothing comprising: at least one air-permeable outer layer having a non-woven laminated material made from at least one meltblown layer sandwiched between two spunbond layers; and a laminated liquid-impermeable, air permeable inner barrier layer connected, at least in sections, to regions of a side of said outer layer facing the user, said barrier layer having an outer liquid impermeable layer and an inner non-woven layer facing the user, wherein the clothing comprises a front part and integrally connected sleeves(column 5, lines 40-68 through column 6, lines 1-65).

However, Ruth-Larson fails to specifically teach the clothing having a penetration resistance to water of at least 150 cm at reinforced locations thereof.

With respect to the penetration resistance to water being at least 150cm at reinforced locations would depend upon the type of test, type of machine used, water speed and water composition. The penetration resistance to water is capable of being at least 150cm at reinforced locations depending upon the above mentioned factors, in which one having ordinary skill in the art can alter to reach the 150cm penetration resistance to water.

In regard to claim 24, Ruth-Larson teaches a disposable piece of clothing, suitable for medical, chemical or biotechnological use to protect a user wearing the clothing from liquids or microorganisms (figures 1 and 2), the clothing comprising: a front part having at least one air-permeable outer layer containing a non-woven laminated material made from at least one meltblown layer sandwiched between two spunbond layers and an inner barrier layer connected, at least in sections, to regions of a side of said outer layer facing the user, and sleeves integrally connected to said front part, said sleeves consisting essentially of a laminated liquid impermeable, air permeable barrier layer containing an outer non-woven layer and an inner liquid impermeable layer facing the user (column 5, lines 40-68 through column 6, lines 1-65).

However, Ruth-Larson fails to teach the barrier layer being a laminated liquid-impermeable, air permeable layer having an outer liquid impermeable layer and an inner non- woven layer facing the user on the body panel portion.

However, Ruth-Larson does teach a barrier layer being a laminated liquid impermeable, air permeable layer having an outer liquid impermeable layer and an inner non- woven layer facing the user on the sleeve portions.

It would have been obvious to have provided the barrier layer as taught by Ruth-Larson on the sleeve portion also on the body portion, since the barrier layer provided with an inner non-woven layer would provide for a reduced clammy feeling of the liquid impermeable layer in contact with the skin and absorb any perspiration generated during a procedure.

5. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruth-Larson in view of Griesbach et al. (US 5,901,706).

Ruth-Larson teaches a disposable garment as described above in claim 9. However, Ruth-Larson fails to teach the barrier layer comprising a polyethylene sheet filled with an "organic and/or Inorganic filler and is mechanically finished to produce microporosity and the filter being calcium carbonate.

In regard to claim 12, Griesbach et al. teaches material used as a surgical drape wherein said barrier layer comprises a polyethylene sheet filled with an "organic and/or Inorganic filler and is mechanically finished to produce microporosity (column 8, lines 37-67).

In regard to claim 13, Griesbach et al. teaches material used as a surgical drape wherein said filler comprises calcium carbonate (column 8, lines 60-67).

It would have been obvious to have provided the disposable surgical garment of Ruth-Larson with the barrier layer filled with a filler as taught in Griesbach et al., since the surgical garment of Ruth-Larson provided with a filler in the barrier layer, would provide a garment that has greater breathability and therefore provides more comfort to the wearer during use.

Response to Arguments

6. Applicant's arguments with respect to claims 9, 11-16 and 18-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30)Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alissa L. Hoey/
Primary Examiner, Art Unit 3765